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Message Text

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ACTION L-02

INFO OCT-01 EUR-12 IO-10 ISO-00 CPR-01 OC-05 CCO-00 OIC-02

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TO SECSTATE WASHDC 4874
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EO 11652: N/A
TAGS: PORG, AORG, PFOR, UN, AU
SUBJ: ACTIVITY BY COMMITTEE OF THE WHOLE DURING PERIOD FEBRUARY 18-20: UN 1975 RSIO CONFERENCE, VIENNA

SUMMARY. IN THREE DAYS, CONFERENCE COMPLETED PART II DRAFT CONVENTION, ON ARTICLES 24-41. IN LIGHT PREVAILING MAJORITY AT CONFERENCE, US CONTINUES TO SEEK OTHERS TO INTRODUCE DESIRED AMENDMENTS, AND SELECTIVELY TO SPEAK OUT IN SUPPORT OF PREFERRED POSITIONS. DURING DEBATE ARTICLE 36 US MADE STATEMENT DEPLORING IMBALANCED TREND THIS CONFERENCE TO IGNORE LEGITIMATE INTERESTS HOST STATES WHILE GREATLY ENHANCING P & I FOR SENDING STATES. END SUMMARY.

ARTICLE 24. (EXEMPTION OF THE PREMISES FROM TAXATION)
BRIEF DISCUSSION ENSUED DURING WHICH JAPAN ARGUED THAT ARTICLE ONLY COVERED EXEMPTION FROM PROPERTY TAXES AND RFG OBJECTED TO COMMENTARY INTERPRETATION THAT INDIRECT TAXES INCLUDED IN EXEMPTION. AFTER PERU VOICED OPPOSITION, FRENCH WITHDREW
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AMENDMENT TO DELETE PHRASE QUOTE OR ANY PERSON

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ACTING ON ITS BEHALF UNQUOTE.
ILC TEXT ARTICLE SENT TO DRAFTING COMMITTEE WITHOUT VOTE.

ARTICLE 26. (INVIOLABILITY OF ARCHIVES AND DOCUMENTS)
NO AMENDMENTS SUBMITTED; ILC TEXT ARTICLE SENT TO DRAFTING COMMITTEE WITHOUT VOTE.

ARTICLE 26. (FREEDOM OF MOVEMENT)
CANADA PROPOSED AMENDMENT TO QUALIFY ILC TEXT BY MAKING FREEDOM OF MOVEMENT SUBJECT TO PERFORMANCE MISSION FUNCTIONS, BASING CASE ON UN CHARTER PARA 105 CONCEPT OF FUNCTION IMMUNITY. US (SMITH) CONCURRED, STATING THAT NO JUSTIFICATION THIS TREATY GUARANTEEING MORE THAN FUNCTIONAL TEST. AFTER POLISH, VENEZUELAN, CAMEROON, AND INDIAN OPPOSITION CANADA DECIDED WITHDRAW AMENDMENT. SWITZERLAND, UK, FRANCE SUBSEQUENTLY NOTED THAT THEY WOULD HAVE SUPPORTED AMENDMENT, WITH UK SPECIFICALLY RESERVING RIGHT TO RESTRICT TRAVEL ON RECIPROCAL BASIS.
ILC TEXT PASSED 52-0-10 (US).

ARTICLE 27. (FREEDOM OF COMMUNICATIONS)
KUWAIT PROPOSED AMENDMENT TO INCLUDE HOST STATE RIGHT TO REQUEST MISSION POUCH BE OPENED IN PRESENCE MISSION PERSONNEL IF HOST STATE HAS REASON TO BELIEVE CONTAINED ITEMS WHICH NOT INTENDED FOR OFFICIAL USE. SHOULD MISSION REFUSE, POUCH TO BE RETURNED TO PLACE ORIGIN. SUPPORTING STATEMENT MADE BY NETHERLANDS AND US (SMITH), LATTER SAYING THIS WOULD NOT BREACH INVIOLABILITY. PERU ONE AGAIN FAVORED ILC TEXT. VOTE ON AMENDMENT 34(US) -8-21, AND ON AMENDED ARTICLE 45(US)-0-19.

ARTICLE 28. (PERSONAL INVIOLABILITY)
UKRAINIANS TABLED TWO-PART AMENDMENT THE FIRST REQUIRING HOST STATE TO PROSECUTE AND PUNISH PERSONS COMMITTING ATTACKS WHILE AT SAME TIME FREEING MISSION MEMBERS FROM MAKING ANY PERSONAL
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WRITTEN OR ORAL STATEMENTS IN CONJUNCTION WITH SUCH. U.S. INTERVENED TO OPPOSE, CALLING PROPOSAL SUPERFLUOUS AND IN SECOND PART CONTRADICTORY TO 1973 CONVENTION OF PROTECTION OF DIPLOMATS, AND ALSO DREW ATTENTION TO PRESENCE OF TERRORISM ON PROVISIONAL AGENDA OF UNGA. FLURRY OF FOUR (4) ORAL SUB-AMENDMENTS THEN INTRODUCED, INCLUDING ONE BY US WHICH SOUGHT FOR TACTICAL REASONS TO GIVE

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SOME BALANCE TO SOVIET PROPOSAL BY ADDING PHRASE
SPECIFYING OBLIGATION OF SENDING STATE TO ASSIST
HOST STATE IN THE CONDUCT OF AN EFFECTIVE INVESTI-
GATION AND PROSECUTION. IN WEO MEETING EARLIER
IN DAY IT HAD BEEN AGREED TO OPPOSE UKRAINE AMEND-
MENT BY GIVING HEAVY EMPHASIS TO TERRORISM ASPECT
AND ARGUE THAT THIS WAS MATTER COVERED ELSEWHERE.
IN LIGHT CANADIAN INTERVENTION POINTING OUT THAT
MATTER TOO COMPLEX TO BE ADEQUATELY HANDLED IN
SHORT TIME ALLOWABLE, US WITHDREW SUB-AMENDMENT,
THE BETTER TO MAINTAIN ITS STATED POSITION THAT
SUBJECT SHOULD NOT BE DEALT WITH HERE. SOVIETS
THEN WITHDREW THEIR AMENDMENT AND ACCEPTED EGYPTIAN
ORAL PROPOSAL THAT PHRASE QUOTE PROSECUTE AND
PUNISH UNQUOTE BE ADDED AFTER WORD QUOTE PREVENT
UNQUOTE IN ILC TEXT. THIS ADOPTED 39-13(US)-15,
WITH AMENDED ARTICLE PASSING 51-1(JAPAN)-12(US).

ARTICLE 29. (INVIOLABILITY OF RESIDENCE AND PROPERTY)
UKRAINIANS CONTINUED EFFORTS INITIATED PREVIOUS
ARTICLE WITH AMENDMENT (LATER ORRALLY SUB-AMENDED

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BY UK) ADDING REQUIREMENT THAT HOST STATE TAKE
APPROPRIATE STEPS TO PROSECUTE AND PUNISH PERSONS

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GUILTY OF ATTACK ON MISSION PREMISES OR RESIDENCES OF HEAD OF MISSION OF STAFF. US INTERVENED TO SAY THAT COMMENTS TO UKRAINE AMENDMENT ARTICLE 28 APPLY MUTATIS MUTANTIS. AMENDMENT PASSED 51-4(US)-10, AND AMENDED ARTICLE 55-0-11(US,UK,BELGIUM,JAPAN).

ARTICLE 30. (IMMUNITY FROM JURISDICTION)
SPAIN AND PAKISTAN PROPOSED IDENTICAL AMENDMENTS TO GRANT ABSOLUTE IMMUNITY FROM CIVIL LIABILITY VEHICLE ACCIDENTS; COMBINED AMENDMENT REJECTED 13-30(US)-17. UK PROPOSED SUBSTITUTE SUB-PARA 1(D) WHICH WOULD INCLUDE VESSELS AND AIRCRAFT AS WELL AS VEHICLES AND WOULD DELETE INSURANCE QUALIFICATION. PERU SUCCESSFULLY SUB-AMENDED BY ADDING QUOTE USED OR OWNED BY PERSON IN QUESTION UNQUOTE. ENSUING DISCUSSION FAVORED WITHHOLDING CIVIL IMMUNITY IN TRANSPORATION ACCIDENTS, WITH US POINTING OUT THAT ILC TEXT IMPROVES UPON CDR, WHICH DID NOT TREAT SUBJECT AND THAT UK PROPOSAL WAS IMPROVEMENT OF ILC DRAFT BY REFLECTING TEXT OF ARTICLE 43 OF VIENNA CONSULAR CONVENTION.
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VOTE ON UK AMENDMENT 29(US)-15-16, AND MENDED ARTICLE PASSED 36(US)-1(PAKISTAN) -23.

ARTICLE 31. (WAIVER OF IMMUNITY)
CZECHOSLOVAKIA HAD PUT FORTH AMENDMENT TO DELETE PARA 5, SUBSEQUENTLY WITHDRAWING IT DURING DEBATE. JAPAN, NIGERIA AND UK PROPOSED ADDING TWO-SENTENCE PARAGRAPH THAT P & I ARE ACCORDED NOT FOR PERSONAL BENEFIT BUT TO SAFEGUARD EXERCISE OFFICIAL FUNCTIONS BY PROTECTED PERSONS, AND THAT SENDING STATE NOT ONLY HAS RIGHT BUT DUTY TO WAIVE IMMUNITY WHERE POSSIBLE WITHOUT PREJUDICING PURPOSE FOR WHICH ACCORDED. USSR FAILED IN DIVERSIONARY MOVE TO MAKE AMENDMENT NON-BINDING BY REQUESTING VOTE ON WHITHER FIRST SENTENCE 3-PARY AMENDMENT SHOULD BE PLACED IN PREAMBLE. VOTES HELD ON EACH SENTENCE OF AMENDMENT, WITH SECOND PART DELETED ON 23(US)-29-12 VOTE, AND FIRST PART RETAINED 44(US)-1-17. AMENDED ARTICLE REFERRED TO DRAFTING COMMITTEE 59-0-3(US).
NO AMENDMENT TO ARTICLE 32. (EXEMPTION FROM SOCIAL SECURITY LEGISLATION), WHICH PASSED WITHOUT VOTE OR DISCUSSION.
FRANCE SOUGHT TO AMEND SUB-PARA (F) OF ARTICLE 33, (EXEMPTION FROM DUES AND TAXES), TO ALSO EXCLUDE MOVABLE PROPERTY FROM EXEMPTION, LOSING ON 18-23-19(US) VOTE. CRITICISM STRESSED INHERENT

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ADMINISTRATIVE DIFICULTY. AMENDED ARTICLE
PASSED 57(US)-0-1(FRANCE).

ARTICLE 34. (EXEMPTION FROM PERSONAL SERVICES)
ADOPTED WITHOUT VOTE OR COMMENT.

ARTICLE 35. (EXEMPTION FROM CUSTOMS DUTIES AND
INSPECTIONS)
FRANCE TABLED AMENDMENT TO ADD SENTENCE THAT
ARTICLES INTENDED FOR CONSUMPTION NOT EXCEED
QUANTITIES NECESSARY FOR DIRECT UTILIZATION.
THIS PROPOSAL WITHDRAWN AT TIME OF INTRODUCTION,
WITH FRANCE SAFISFYING SELF BY PUTTING OPINION
ON RECORD. ILC ARTICLE ADOPTED WITHOUT VOTE.
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ARTICLE 36. (PRIVILEGES & IMMUNITIES OF OTHER
PERSONS)
CANADA AND JAPAN PROPOSED MAENDING PARA ONE,
FAMILY OF DIPLOMATIC STAFF, TO INCLUDE PERMANENT
RESIDENTS WITH NATIONALS AMONG THOSE NOT ENTITLED
TO P & I. IN RELATED APPROACH FRG SUBMITTED
AMENDMENT TO PARAS. THREE AND FOUR , SERVICE STAFF
AND PRIVATE STAFF, TO EXCLUDE NATIONALS AND
PERMANENT RESIDENTS OF HOST STATE FROM P & I
COVERED BY THESE PARAGRAPHS. US (SMITH) CHOSE
DEBATE THIS ARTICLE TO PUT ON RECORD SERIOUS
US CONCERN ABOUT INEXORABLE TREND THIS CONFERENCE
TO EXTEND SCOPE P & I FAR BEYOND FUNCTIONAL
NEED AND THOSE ENUMERATED IN CONVENTION DIPLOMATIC
RELATIONS, OBSERVING THAT CDR HAS BEEN CONVENIENTLY
REMEMBERED DURING PROCEEDINGS IN ORDER TO BUTTRESS
SENDING STATES RIGHTS BUT IGNORED WITH RESPECT
TO RIGHTS OF HOST STATE. US FURTHER NOTED THAT
IT SHOULD BE EXTABLISHED THAT P & I ENJOYED
BY UN ADMINISTRATIVE AND TECHNICAL STAFF INADE-
QUATE BEFORE EMBARKING ON SUCH WIDE-SCALE
ENHANCEMENT.
TOTAL OF EIGHT VOTES TAKEN, WITH ONE ON EACH AMENDMENT
TO A PARA, THE PARA ITSELF, AND THE
ARTICLE AS A WHOLE. ALL AMENDMENTS PASSED, AND
ARTICLE AS MENDED ADOPTED 52-0-10(US). US
SUPPORTED ALL AMENDMENTS AND PARAS THREE AND
FOUR, BUT VOTED AGAINST PARAS ONE AND TWO.
INTERSTINGLY, FRANCE ABSTAINED THROUGHOUT, AND
SOVBLOC VOTED GENERALLY SAME AS US.

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ARTICLE 37. (NATIONALS OF THE HOST STATE AND
PERSONS PERMANENTLY RESIDENT IN THE HOST STATE)
FRANCE CONTINUED ITS FREQUENT SUBMISSION OF
AMENDMENTS, THIS TIME SEEKING TO DELETE FROM
PARA TWO REFERENCE TO PRIVILEGES ENJOYED AND,
MORE IMPORTANTLY TO US, QUALIFICAION THAT THESE
P & I CONTINGENT UPON HOST STATE AGREEMENT.
WEOG SPLIT ON AMENDMENT, WITH US, UK, CANADA,
AND JAPAN OPPOSING, AND AUSTRIA, DENMARK AND
BELGIUM AMONG THOSE SUPPORTING. PROPOSAL
PASSED 26-13(US)-22, AND AMENDED ARTICLE ADOPTED
45-0-17(US).

CONSIDERATION OF ARTICLE 38. (DURATION OF PRIVI-
LEGES AND IMMUNITIES) SAW AUSTRIA PROPOSE INSERTION
OF QUALIFICATION IN PARA ONE THAT P & I BEGIN
AFTER HOST STATE DULY NOTIFIED OF ARRIVAL PERSON
SO ENTITLED, STRESSING PRACTICAL DIFFICULTIES BOTH
SENDING AND HOST STATES WOULD OTHERWISE INCURR.
INDIA OPPOSED, CLAIMING THIS TO BE ATTEMPT TO
RE-INTRODUCE PRIOR NOTIFICATION CLAUSE, WHICH WAS
DEFEATED IN CONSIDERATION ARTICLE 15. AUSTRIA
COUNTERED WITH REPLY THAT SUCH NOTIFICATION COULD
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COME FROM IO OR DIRECTLY FROM SENDING STATE.
PROPOSAL DEFEATED ON 20(US)-22-21 VOTE WITH MAINLY
WEOG SUPPORTING AND USUAL COALITION OF LATIN
AMERICAN AND SOVBLOC COUNTRIES OPPOSING.
AMENDED ARTICLE ADOPTED 60(US)-0-3(FRANCE).

ARTICLE 39. (PROFESSIONAL OR COMMERCIAL ACTIVITY)
FRANCE PROPOSED ADDED PARA COVERING ADMIN-
ISTRATIVE AND TECHNICAL STAFF AND MEMBERS OF
HOUSEHOLD, THERBY CLOSING GAP IN ILC TEXT.
AMENDMENT, WHICH WAS ADOPTED 32(US,WEOG)-15
(PERU, SOVBLOC)-15, SPECIFIES THAT SUCH PERSONS
DO NOT ENJOY P & I IN CONNECTION WITH PRACTICE
OF SUCH ACTIVITY UNLESS HOST STATES DECIDES TO
GRANT. ARTICLE ADOPTED 41(US)-0-20.

NO DISCUSSION TOOK PLACE ON ARTICLE 40. (END OF
THE FUNCTION OF THE HEAD OF MISSION OR OF A MEMBER
OF THE DIPLOMATIC STAFF), WHICH WAS SENT TO
DARAFTING COMMITTEE WITHOUT VOTE.

ARTICLE 41. (PROTECTION OF PREMESES, PROPERTY AND
ARCHIVES)
IN WEO MEETING SEVERAL DAYS EARLIER US DEL
ANNOUNCED IT SOUGHT ADD ORGANIZATION AS POSSIBLE
CUSTODIAN. FOR TACTICAL REASONS FRG REP AGREED
TO PRESENT AMENDMENT. SOVBLOC, INDIAN AND
TUNISIAN DELS OPPOSED FRG AMENDMENT WHILE US,
JAPANESE SUPPORTED. EXPERT CONSULTANT EL-ERIAN ADMITTED
THAT THERE WAS LITTLE PRECEDENT IN MATTER AND
LEGAL COUNSEL SUY ARGUED THAT ORGANIZATION HAD
NO JURISDICTION TO PROTECT OUTSIDE HEADQUARTERS.
FRG ORALLY SUB-AMENDED HIS TEXT TO READ: QUOTE
TO THE ORGANIZATION IF IT SO AGREES, OR . . .
UNQUOTE. US DEL CONTEST SUY REMARKS BY POINTING
OUT THAT SAME ARGUMENT COULD BE USED FOR OTHER
SENDING STATES. GREEK DEL PROPOSED SUBSTITUTING
WORDS QUOTE AS SOON AS POSSIBLE UNQUOTE FOR
QUOTE WITHIN A REASONABLE TIME UNQUOTE WITH REGARD
TO TERMINATING SPECIAL DUTY OF HOST STATE TO
PROTECT PREMISES AND ARCHIVES OF CLOSED MISSION.
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GREEK AMENDMENT WAS ADOPTED BY VOTE OF 34(US)-13
(SOVBLOC, EGYPT)-18. FRG AMENDMENT WAS ADOPTED
32(US)-14(SOVBLOC, BRAZIL)-18.HUMES

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